

Panaji, 20th March, 1997 (Phalguni 29, 1918)

SERIES I No. 51



OFFICIAL GAZETTE

GOVERNMENT OF GOA

Note:— There are two Extraordinary issues to the Official Gazette, Series I No. 50 dated 13-3-97 as follows:

- 1) Extraordinary dated 13-3-97 from pages 709 to 714 regarding Notification from Department of Law (Legal and Legislative Affairs).
- 2) Extraordinary No. 2 dated 19-3-97 from pages 715 to 720 regarding Notification from Department of Law (Legal and Legislative Affairs).

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

10/5/96/LA. Vol. I

The Income Tax (Second Amendment) Ordinance, 1996 (Ordinance No. 32 of 1996) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, section I, dated 31st December, 1996 is hereby published for the general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 20th January, 1997.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st December, 1996/Pausa 10, 1918 (Saka)

THE INCOME TAX (SECOND AMENDMENT) ORDINANCE, 1996

No. 32 of 1996

Promulgated by the President in the Forty-seventh Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. *Short title and commencement.*— (1) This Ordinance may be called the Income-tax (Second Amendment) Ordinance, 1996.

(2) Save as otherwise provided in this Ordinance, sections 4 to 10 shall come into force on the 1st day of January, 1997.

2. *Amendment of section 54EA.*— In section 54EA of the Income tax Act, 1961 (hereinafter referred to as 43 of 1961. the Income-tax Act), with effect from the 1st day of October, 1996—

(a) in sub-section (1), for the words, brackets, figures and letter “bonds, debentures or units of mutual fund referred to in clause (23D) of section 10,”, the words, brackets, figures and letter “bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (23D) of section 10,” shall be substituted and shall be deemed to have been substituted;

(b) for the words “specified bonds or debentures”, wherever they occur, the words “specified securities” shall be substituted and shall be deemed to have been substituted.

3. *Amendment of section 80G.*— In section 80G of the Income-tax Act, with effect from the 1st of April, 1997,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters “sub-clause (iihd)”, the words, brackets, figures and letters “or sub-clause (iihe)” shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iihd), the following sub-clause shall be inserted, namely:

“(iihe) the National Illness Assistance Fund; or”.

4. *Amendment of section 158BC.*— In section 158BC of the Income-tax Act, in clause (a),—

(a) for the words “not being less than fifteen days”, the words “not being less than fifteen days but not more than forty-five days” shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:

“Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;”.

5. Amendment of section 158BE.— In section 158BE of the Income-tax Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(J) The order under section 158BC shall be passed,—

(a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

(a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(b) within two years from the end of the month in which notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.”

6. Insertion of new section 158BFA.— After section 158BF of the Income-tax Act, the following section shall be inserted, namely:—

“158BFA. Levy of Interest and penalty in certain cases.—(1) Where the return of total income including undisclosed income for the block period, required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. of the tax on undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC:

Provided that no order imposing penalty shall be made in respect of a person if—

- (i) such person has furnished a return under clause (a) of section 158BC;
- (ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;
- (iii) evidence of tax paid is furnished along with the return; and
- (iv) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the Assistant Commissioner or Assistant Director, as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the Deputy Commissioner or Deputy Director, as the case may be;

(c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later;

(d) in a case where the assessment is the subject matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(e) in any case other than those mentioned in items (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed or six months from the end of the month in which action for imposing of penalty is initiated, whichever period expires later.

Explanation. In computing the period of limitation for the purpose of this section,—

- (i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;
- (ii) the period during which the immunity granted under section 245H remained in force; and
- (iii) the period during which the proceedings under sub-section (2) are stayed by an order or injunction of any court,
shall be excluded.

(4) An Income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.”.

7. Substitution of new section for section 158BG.— For section 158BG of the Income-tax Act, the following section shall be substituted, namely:—

“158BG. Authority competent to make the block assessment.— The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an Assistant Commissioner or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of the Deputy Commissioner or the Deputy Director, as the case may be.”.

8. Amendment of section 246.— In section 246 of the Income-tax Act, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:

“(da) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997;

(db) an order imposing a penalty under sub-section (2) of section 158BFA;”.

9. Amendment of section 253.— In section 253 of the Income-tax Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

“(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or”.

10. Insertion of new section 276CCC.— After section 276CC of the Income-tax Act, the following section shall be inserted, namely:

“276CCC. Failure to furnish return of income in search cases.— If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.”.

SHANKER DAYAL SHARMA,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

Notification

10/5/96/LA-Vol.

The Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1997 (Ordinance No. 3 of 1997) which has been promulgated by the President of India, and published in the Gazette of India, Extraordinary, Part II, Section I, dated 9th January, 1997, is hereby published for the general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 5th February, 1997.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 9th January, 1997/Pausa 19, 1918 (Saka)

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ORDINANCE, 1997

No. 3 of 1997

Promulgated by the President in the Forty-seventh Year of the Republic of India

An Ordinance to provide for the inclusion of Koch-Rajbongshi in the list of Scheduled Tribes specified in relation to the State of Assam.

Whereas the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996 to provide for the aforesaid matter was promulgated by the President on the 27th day of January, 1996;

And Whereas the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996 was introduced in the House of the People to replace the said Ordinance, but had not been passed and had lapsed due to the dissolution of the House of the People;

And Whereas for giving continued effect to the provision of the said Ordinance, the Constitution (Scheduled Tribes) Order (Amendment) Second Ordinance, 1996 was promulgated by the President on the 27th day of March, 1996;

And Whereas for giving continued effect to the provisions of the said Ordinance, the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996 was promulgated by the President on the 27th day of June, 1996;

And Whereas the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996 was introduced in the House of the People and could not be passed;

And Whereas the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996 ceased to operate on the 21st day of August, 1996;

And Whereas it is considered to give continued effect to the provisions of the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996 and to validate the action taken under the said Ordinance;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1997.

(2) It shall be deemed to have come into force on the 27th day of January, 1996.

2. Amendment of the Constitution (Scheduled Tribes) Order, 1950.— In the Schedule to the Constitution (Scheduled Tribes) Order, 1950 (hereinafter referred to as the principal Order), in "Part II.— Assam", under the heading "II. In the State of Assam excluding the autonomous districts:—", after item 9 and the entry relating thereto, the following item and entry shall be added, namely:—

"10. Koch-Rajbongshi.".

3. Validation.— Notwithstanding the fact that the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996, has ceased to operate, the inclusion of Koch-Rajbongshi in the Constitution (Scheduled Tribes) Order, 1950, shall be deemed to have been made by this Ordinance and shall be deemed to be as valid and effective as if the amendment made by this Ordinance had been in force at all material times.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

Notification

10/5/95/LA-Vol. I

The Constitution (Schedule Tribes) Order (Amendment) Third Ordinance, 1996 (Ordinance No. 30 of 1996) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, section I dated 27th June, 1996 is hereby published for the general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 16th August, 1996.

MINISTRY OF LAW, JUSTICE AND COMPANY
AFFAIRS

(Legislative Department)

New Delhi, the 27th June, 1996/Asadha 6, 1918 (Saka)

THE CONSTITUTION (SCHEDULED TRIBES) ORDER
(AMENDMENT) THIRD ORDINANCE, 1996

No. 30 of 1996

Promulgated by the President in the Forty-seventh Year of the Republic of India.

An Ordinance to provide for the inclusion of Koch-Rajbongshi in the list of Scheduled Tribes specified in relation to the State of Assam.

Whereas the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996 to provide for the aforesaid matter was promulgated by the President on the 27th day of January, 1996;

And Whereas the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996 was introduced in the House of the People to replace the said Ordinance, but had not been passed and has lapsed due to the dissolution of the House of the People;

And Whereas for giving continued effect to the provision of the said Ordinance, the Constitution (Scheduled Tribes) Order (Amendment) Second Ordinance, 1996 was promulgated by the President on the 27th day of March, 1996;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Constitution (Scheduled Tribes) Order (Amendment) Second Ordinance, 1996;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996.

(2) It shall be deemed to have come into force on the 27th day of January, 1996.

2. Amendment of the Constitution (Scheduled Tribes) Order, 1950.— In the Schedule to the Constitution (Scheduled Tribes) Order, 1950 (hereinafter referred to as the principal Order), in "Part II.— Assam", under the heading "II. In the State of Assam excluding the autonomous districts:—", after item 9 and the entry relating thereto, the following item and entry shall be added, namely:—

"10. Koch-Rajbongshi.".

3. Repeal and saving.— (1) The Constitution (Scheduled Tribes) Order (Amendment) Second Ord. 19 of Ordinance, 1996, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Order, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Order, as amended by this Ordinance.

SHANKER DAYAL SHARMA,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

Government Printing Press

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